IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

CIVIL APPLICATION NO. 125 OF 2006
IN
FIRST APPEAL NO. 115 OF 2006.

Shri Josinho Correira & Anr. .... Applicants

Versus

The State of Goa,
through the Chief Secretary & Ors. .... Respondents

Shri Arun Bras De Sa, Advocate for the Applicants.
Shri P. S. Rao, Advocate for Respondent No.4.
Ms. R. Chodankar, Addl. Govt. Advocate for Respondents no. 1 to 3, 5 to 7.

CORAM : **P. V. KAKADE, J.**

DATE : **25th September, 2006**

P.C.:

Heard learned Counsel for both the parties. Perused the record. The First Appeal is already admitted.

2. This is an application for stay of the Judgment and Order passed by the lower Court, as the suit of the appellants-plaintiffs came to be dismissed.

3. As the record shows that it was suit for permanent injunction with consequential reliefs, plaintiffs came with the case that the plaintiffs own and possess the landed property known as “ORTEM” alias “ONTEM” bearing Matriz No. 420. That portion of the said property is surveyed under Nos. 85/24 and 85/25 of Village Chinchinim. It was the case of the plaintiffs that the suit property is in continuous occupation, possession and enjoyment of the plaintiffs and prior to that by their predecessors-in-title, without any interference and/or obstruction from any person whosoever. The plaintiffs also sought to rely upon several documents in order to support their claim. On the other hand, the defendants who are the State as well as the public body which is the Village Panchayat challenged the plaintiffs claim on various grounds, inter alia, submitting that the plaintiffs had no right on the impugned property. The lower Court adjudicated the dispute on merits, wherein it was held that the plaintiffs failed to prove their title on the alleged property nor did they succeed even in identification of the suit property and the suit was finally dismissed. Under the circumstances, there is no question of interim stay to be granted pending the appeal, though it is a fact that the interim stay was prevailing during the pendency of the trial and came to be vacated by dismissal of the suit.

4. Under the circumstances, I do not see any merits in the application and the application for stay of the lower Court's order stands dismissed with no order as to costs.

P. V. KAKADE, J.

NH